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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Michael L. Smith,

Petitioner,

v.

Renee Baker, *et al.*,

Respondents.

Case No. 3:13-cv-00246-RCJ-WGC

**Unopposed Motion for Extension
of Time to File Opposition to
Motion to Dismiss**

(First Request)

POINTS AND AUTHORITIES

Petitioner Michael L. Smith respectfully asks this Court to enter an Order extending his deadline for filing a Opposition to the warden's motion to dismiss for 90 days until July 21, 2019.

On August 23, 2016, this Court granted a stay and administratively closed Smith's case while he returned to exhaust his claims.¹ After completing his state court proceedings, Smith sought to reopen the federal case, and submitted a copy of his Second Amended Petition.² This Court granted the request and ordered the warden to file a response.³ After three extensions, the warden filed a motion to dismiss on March 8, 2019.⁴ Smith's Opposition is due today, April 22, 2019.⁵

This is Smith's first request for an extension.

This extension is necessary to allow counsel time to prepare and file Smith's Opposition, addressing the myriad of procedural defenses the warden claimed, including exhaustion, procedural default, waiver, and allegations that some of his claims are not cognizable on federal habeas.⁶

This request takes counsel's schedule into mind. Counsel expects to be out of the office completely from April 26, 2019 through May 10, 2019 on medical leave. She expects to work from home from May 13 through May 24, recovery permitting. She will also be out of the office on June 6 to 7 for a Ninth Circuit oral argument in Portland, Oregon, and from June 8 to 23 for a long-planned family vacation out of the country. Even if counsel's recovery is difficult and she cannot work remotely

¹ ECF No. 43.

² *Id.* See also ECF No. 41, 41-1.

3 *Id.*

⁴ ECF Nos. 45, 46, 47, 52.

⁵ See ECF No. 43.

⁶ ECF No. 52.

1 from May 13 through May 24, she believes the requested extension will give her
2 enough time to still complete the Opposition by July 21, 2019.

3 Over the past two months, since learning of the need for medical leave,
4 counsel has been diligently working on her cases to complete as much as possible
5 before leaving. As a result, she was unable to complete the Opposition in this case.

6 This motion is not filed for the purposes of delay but in the interests of
7 justice, as well as in Smith's interests. Accordingly, Smith respectfully asks this
8 Court to grant the requested extension to July 21, 2019.

9 Counsel spoke to Senior Deputy Attorney General Allison Herr on the
10 telephone earlier this month about this request and she replied that she did not
11 object to the requested extension.

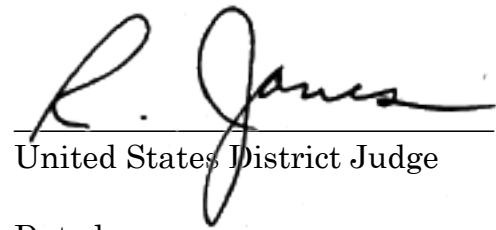
12 Dated April 22, 2019.

13 Respectfully submitted,

14 Rene L. Valladares
15 Federal Public Defender

16 /s/Amelia L. Bizzaro
17 Amelia L. Bizzaro
18 Assistant Federal Public Defender

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20 IT IS SO ORDERED:

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23 _____
24 United States District Judge
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26 Dated: ___ August 9, 2019 ___
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